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AUG 10 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Simon D. Boland
Application No. 09/813,525
Filed: March 21, 2001
For: VOICE-ACTIVITY DETECTION USING
ENERGY RATIOS AND PERIODICITY

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the request for reconsideration filed June 24, 2005, based on MPEP 711.03(c)(II), a pursuant to 37 CFR 1.181(a), to withdraw holding of abandonment.

The application became abandoned due to failure to timely respond to the non-final Office action mailed March 17, 2004. A Notice of Abandonment was mailed March 7, 2005.

Petitioner alleges that the non-final Office action was not received.

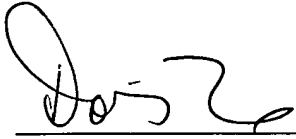
The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has satisfied the requirements set forth above. In addition, a further review of the record indicates that the zip code of the correspondence address was entered incorrectly. The Office did in fact mail the non-final Office action to an incorrect correspondence address. In view thereof, there was an irregularity in the mailing of the non-final Office action on March 17, 2004, as it was mistakenly mailed to an incorrect correspondence address. The Patent and Trademark Office regrets any inconvenience to Petitioner. Accordingly, the application file was not abandoned in fact and the holding of abandonment is withdrawn.

The petition is **GRANTED**.

Given the original mailing date of the non-final Office action, the application will be returned to the examiner for updates as appropriate and generation of a new Office action. The time period for response

will be restarted from the mail date of the new Office action.

A handwritten signature in black ink, appearing to read 'Doris To', is written over a horizontal line.

Doris To
Special Program Examiner
Technology Center 2600
Communications